

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-cv-329-GKF(PJC)
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**STATE OF OKLAHOMA'S RESPONSE TO " DEFENDANTS' JOINT MOTION
FOR USE OF A JURY QUESTIONNAIRE AND INTEGRATED BRIEF IN
SUPPORT" (DKT. #2446)**

Plaintiff, the State of Oklahoma ("the State"), respectfully responds to "Defendants' Joint Motion for Use of a Jury Questionnaire and Integrated Brief In Support" (Dkt. #2446) ("Defendants' Motion").

The State agrees with Defendants that a juror questionnaire would be helpful in this case. The State has reviewed Defendants' proposed juror questionnaire and has created a revised version of that questionnaire. The State's revisions make the questionnaire more neutral and concise and omit questions that are unnecessarily invasive. Attached hereto as Exhibit 1 is a version of Defendants' proposed questionnaire with the State's additions, deletions, and other edits noted in "blacklined" format on the document. Attached hereto as Exhibit 2 is a "clean" version of Defendants' proposed questionnaire with the State's changes incorporated into the document.

The State is in agreement with much of Defendants' proposed questionnaire. The State has made numerous minor edits to the formatting and word choice in Defendants' proposed jury questionnaire in order to make the language as clear and neutral as possible, while eliciting information valuable to both parties.

The State has also made more substantive changes to Defendants' proposed questionnaire. Substantive changes the State has made to Defendants' proposed questionnaire include the following:

- 1) The State has added information explaining the purpose of the questionnaire to potential jurors at the beginning of the questionnaire. *See* Ex. 1, p. 1.
- 2) Defendants' questions Nos. 12 and 43 have been reformatted to facilitate responses from potential jurors while maximizing the amount of information gathered. *See* Ex. 1, pp. 2, 7.
- 3) The State removed Defendants' question No. 19 (*see* Dkt. #2446-2, p. 4) that asks if potential jurors know any judges or lawyers. This question is overly broad and not helpful to the parties or the Court. It is anticipated that the Court's *voir dire* will elicit any necessary responses regarding potential jurors' connections or relationships with the parties, their law firms, and their lawyers.
- 4) The State removed Defendants' question No. 24 (*see* Dkt. #2446-2, p. 6) in which Defendants propose that potential jurors identify their political party affiliation. The State believes this is an inappropriate question that is invasive to the privacy of the potential jurors and that is not helpful to determine qualified jurors.
- 5) The State removed Defendants' questions Nos. 27 and 28 (*see* Dkt. #2446-2, p. 7) because the questionnaire already contains questions about potential jurors' feelings about lawsuits and these questions become repetitive and unnecessary.
- 6) The State removed Defendants' question No. 30 (*see* Dkt. #2446-2, p. 7) that inquires whether potential jurors eat or encourage others to eat organic foods.

The consumption of any food, regardless of whether it is organic, is not an issue in this case and is not helpful to determine qualified jurors.

- 7) The State abbreviated Defendants' question No. 47, removing the portion of the question regarding jurors' opinions on the water quality in the IRW compared to other parts of the country. This portion of the question is argumentative, and it improperly asks jurors to make a comparison and judgment about the water quality in the IRW. *See* Ex. 1, p. 7.
- 8) The State removed Defendants' question No. 64 regarding long-term or permanent disabilities in potential jurors or people close to them. (*See* Dkt. #2446-2, p. 15.) This is not a relevant inquiry in this case.
- 9) The State removed question No. 56 (*see* Dkt. #2446-2, p. 15) regarding "Drew Edmondson" because this case is being brought by the State of Oklahoma, and it is not appropriate to have a question pertaining to one particular lawyer while asking no questions about other lawyers in this case.
- 10) The State altered question No. 38 to make it more neutral, including questions about both environmental groups and agricultural / farming groups. *See* Ex. 1, p. 6.
- 11) The State has added questions Nos. 49 and 50 to ensure potential jurors are not predisposed towards any particular party. *See* Ex. 1, p. 8.
- 12) The State has added question No. 47 regarding the Cherokee Nation and other Native American Nations in light of this Court's recent order regarding the Cherokee Nation and the press coverage of that issue. *See* Ex. 1, p. 8.

13) The State has added question No. 41 regarding potential jurors' conversations about the IRW to determine whether any potential jurors participated in the State's contingent valuation survey or focus groups, or any studies conducted by Defendants. *See* Ex. 1, p. 7.

Upon Defendants' review of this counter-proposal to their questionnaire, counsel for the State are ready and willing to meet and confer with Defendants in hopes of reaching an agreed-upon juror questionnaire.

Respectfully Submitted,

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